IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.443 OF 2006
IN
CRIMINAL APPEAL NO.389 OF 2005

1. Shri Vetal Narayan Pawar .. Applicant

Vs.

The State of Maharashtra .. Respondent

Mr.R.V.Bansode for the applicant

Mrs.U.V.Kejriwal, A.P.P. for the state

CORAM : J.N.PATEL &
R.S.MOHITE, JJ.

DATED : 8TH JANUARY, 2007

P.C.:

1. Heard.

2. This is the third application for suspension of sentence. The first application came to be dismissed by this court. At the time of hearing of the second application, the same was withdrawn with liberty to file fresh application and this is how this application has been filed.

3. The appellants are held guilty and convicted for having committed offence u.s.302 r/w s.34 of the Indian Penal Code. It was the prosecution's case that on 30.1.95 between 1.30 and 7.30 p.m. Smt. Tapasi Montohara was murdered in an apartment and the learned trial court found that the prosecution has proved that it is the appellant alongwith the other two who have committed the murder.

4. The learned counsel appearing for the appellants submitted that the case is based on circumstantial evidence which does not establish the complicity of the accused in the commission of the crime and, therefore, pending their appeal substantive sentence be suspended and they may be ordered to be released on bail.

5. The bail application is objected to by the learned A.P.P. on the ground that the circumstantial evidence of the nature of the appellant accused alongwith the other accused having last seen together is duly established. Further, the prosecution has also brought on record

evidence to the fact of discovery of stolen articles belonging to the deceased and, therefore, this is not a fit case where sentence can be suspended.

6. With the able assistance of the learned counsel for the appellant accused, we have scanned the evidence on record with a prima facie purpose of assessing whether this is a fit case where substantive sentence can be suspended. We find that there is enough material to show the complicity of the appellant accused, though of circumstantial nature and, therefore, no case is made out for suspension of sentence. Application is rejected.

(SHRI J.N. PATEL, J)

(SHRI R.S.MOHITE, J)